

Chapter 67

Political Subdivisions, Miscellaneous Powers

Section 67.307

August 28, 2013

Sanctuary policies for municipalities prohibited--definitions--duty of law enforcement to cooperate in immigration enforcement.

67.307. 1. As used in this section, the following terms mean:

(1) "Law enforcement officer", a sheriff or peace officer of a municipality with the duty and power of arrest for violation of the general criminal laws of the state or for violation of ordinances of municipalities;

(2) "Municipality", any county, city, town, or village;

(3) "Municipality official", any elected or appointed official or any law enforcement officer serving the municipality;

(4) "Sanctuary policy", any municipality's order or ordinance, enacted or followed that:

(a) Limits or prohibits any municipality official or person employed by the municipality from communicating or cooperating with federal agencies or officials to verify or report the immigration status of any alien within such municipality; or

(b) Grants to illegal aliens the right to lawful presence or status within the municipality in violation of federal law.

2. No municipality shall enact or adopt any sanctuary policy. Any municipality that enacts or adopts a sanctuary policy shall be ineligible for any moneys provided through grants administered by any state agency or department until the sanctuary policy is repealed or is no longer in effect. Upon the complaint of any state resident regarding a specific government entity, agency, or political subdivision of this state or prior to the provision of funds or awarding of any grants to a government entity, agency, or political subdivision of this state, any member of the general assembly may request that the attorney general of the state of Missouri issue an opinion stating whether the government entity, agency, or political subdivision has current policies in contravention of this section.

3. The governing body, sheriff, or chief of police of each municipality shall provide each law enforcement officer with written notice of their duty to cooperate with state and federal agencies and officials on matters pertaining to enforcement of state and federal laws governing immigration.

4. This section shall become effective on January 1, 2009.

(L. 2008 H.B. 1549, et al.)

Effective 1-01-09

Chapter 290

Wages, Hours and Dismissal Rights

Section 290.210

August 28, 2013

Definitions.

290.210. As used in sections 290.210 to 290.340, unless the context indicates otherwise:

- (1) "Adjacent county", any Missouri county of the third or fourth classification having a boundary that, at any point, touches any boundary of the locality for which the wage rate is being determined;
- (2) "Collective bargaining agreement" means any written agreement or understanding between an employer or employer association and a labor organization or union which is the exclusive bargaining representative of the employer's or employer association's employees pursuant to the terms of the National Labor Relations Act and which agreement or understanding or predecessor agreement or understanding has been used to determine an occupational title wage rate;
- (3) "Construction" includes construction, reconstruction, improvement, enlargement, alteration, painting and decorating, or major repair;
- (4) "Department" means the department of labor and industrial relations;
- (5) "Labor organization" or "union" means any entity which has been designated pursuant to the terms of the National Labor Relations Act as the exclusive bargaining representative of employees of employers engaged in the construction industry, which entity or affiliated entity has ever had a collective bargaining agreement which determined an occupational title wage rate;
- (6) "Locality" means the county where the physical work upon public works is performed;
- (7) "Maintenance work" means the repair, but not the replacement, of existing facilities when the size, type or extent of the existing facilities is not thereby changed or increased;
- (8) "Prevailing hourly rate of wages" means the wages paid generally, in the locality in which the public works is being performed, to workmen engaged in work of a similar character including the basic hourly rate of pay and the amount of the rate of contributions irrevocably made to a fund, plan or program, and the amount of the rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing benefits to workmen and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the workmen affected, for medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, for unemployment benefits, life insurance, disability and sickness insurance, accident insurance, for vacation and holiday pay, for defraying costs of apprenticeship or other similar programs, or for other bona fide fringe benefits, but only where the contractor or subcontractor is not required by other federal or state law to provide any of the benefits; provided, that the obligation of a contractor or subcontractor to make payment in accordance with the prevailing wage determinations of the department, insofar as sections 290.210 to 290.340 are concerned, may be discharged by the making of payments in cash, by the making of irrevocable

contributions by the assumption of an enforceable commitment to bear the costs of a plan or program as provided herein, or any combination thereof, where the aggregate of such payments, contributions and costs is not less than the rate of pay plus the other amounts as provided herein;

(9) "Previous six annual wage order reporting periods" means the current annual wage order reporting period under consideration for wage rate determinations and the five immediately preceding annual wage order reporting periods*;

(10) "Public body" means the state of Missouri or any officer, official, authority, board or commission of the state, or other political subdivision thereof, or any institution supported in whole or in part by public funds;

(11) "Public works" means all fixed works constructed for public use or benefit or paid for wholly or in part out of public funds. It also includes any work done directly by any public utility company when performed by it pursuant to the order of the public service commission or other public authority whether or not it be done under public supervision or direction or paid for wholly or in part out of public funds when let to contract by said utility. It does not include any work done for or by any drainage or levee district;

(12) "Workmen" means laborers, workmen and mechanics.

(L. 1957 p. 574 § 1, A.L. 1965 p. 438, A.L. 1969 S.B. 142, A.L. 2013 H.B. 34)

*Word "period" appears in original rolls.

Chapter 290

Wages, Hours and Dismissal Rights

Section 290.220

August 28, 2013

Policy declared.

290.220. It is hereby declared to be the policy of the state of Missouri that a wage of no less than the prevailing hourly rate of wages for work of a similar character in the locality in which the work is performed shall be paid to all workmen employed by or on behalf of any public body engaged in public works exclusive of maintenance work.

(L. 1957 p. 574 § 2)

Chapter 290

Wages, Hours and Dismissal Rights

Section 290.230

August 28, 2013

Prevailing wage rates required on construction of public works.

290.230. 1. Not less than the prevailing hourly rate of wages for work of a similar character in the locality in which the work is performed, and not less than the prevailing hourly rate of wages for legal holiday and overtime work, shall be paid to all workmen employed by or on behalf of any public body engaged in the construction of public works, exclusive of maintenance work. Only such workmen as are directly employed by contractors or subcontractors in actual construction work on the site of the building or construction job shall be deemed to be employed upon public works.

2. When the hauling of materials or equipment includes some phase of construction other than the mere transportation to the site of the construction, workmen engaged in this dual capacity shall be deemed employed directly on public works.

(L. 1957 p. 574 § 3)

Chapter 290

Wages, Hours and Dismissal Rights

Section 290.240

August 28, 2013

Department of labor and industrial relations to enforce--make regulations.

290.240. 1. The department shall inquire diligently as to any violation of sections 290.210 to 290.340, shall institute actions for penalties herein prescribed, and shall enforce generally the provisions of sections 290.210 to 290.340.

2. The department may establish rules and regulations for the purpose of carrying out the provisions of sections 290.210 to 290.340.

(L. 1957 p. 574 § 6, A.L. 1969 S.B. 142)

Chapter 290

Wages, Hours and Dismissal Rights

Section 290.250

August 28, 2013

Prevailing wage, incorporation into contracts--failure to pay, penalty--complaints of violation, public body or prime contractor to withhold payment--determination of a violation, investigation required--employer's right to dispute--enforcement proceeding permitted, when.

290.250. 1. Every public body authorized to contract for or construct public works before advertising for bids or undertaking such construction shall request the department to determine the prevailing rates of wages for workmen for the class or type of work called for by the public works, in the locality where the work is to be performed. The department shall determine the prevailing hourly rate of wages in the locality in which the work is to be performed for each type of workman required to execute the contemplated contract and such determination or schedule of the prevailing

hourly rate of wages shall be attached to and made a part of the specifications for the work. The public body shall then specify in the resolution or ordinance and in the call for bids for the contract what is the prevailing hourly rate of wages in the locality for each type of workman needed to execute the contract and also the general prevailing rate for legal holiday and overtime work. It shall be mandatory upon the contractor to whom the contract is awarded and upon any subcontractor under him to pay not less than the specified rates to all workmen employed by them in the execution of the contract. The public body awarding the contract shall cause to be inserted in the contract a stipulation to the effect that not less than the prevailing hourly rate of wages shall be paid to all workmen performing work under the contract. The employer shall forfeit as a penalty to the state, county, city and county, city, town, district or other political subdivision on whose behalf the contract is made or awarded one hundred dollars for each workman employed, for each calendar day, or portion thereof, such workman is paid less than the said stipulated rates for any work done under said contract, by him or by any subcontractor under him, and the said public body awarding the contract shall cause to be inserted in the contract a stipulation to this effect. It shall be the duty of such public body awarding the contract, and its agents and officers, to take cognizance of all complaints of all violations of the provisions of sections 290.210 to 290.340 committed in the course of the execution of the contract, and, when making payments to the contractor becoming due under said contract, to withhold and retain therefrom all sums and amounts due and owing as a result of any violation of sections 290.210 to 290.340. It shall be lawful for any contractor to withhold from any subcontractor under him sufficient sums to cover any penalties withheld from him by the awarding body on account of said subcontractor's failure to comply with the terms of sections 290.210 to 290.340, and if payment has already been made to him, the contractor may recover from him the amount of the penalty in a suit at law.

2. In determining whether a violation of sections 290.210 to 290.340 has occurred, and whether the penalty under subsection 1 of this section shall be imposed, it shall be the duty of the department to investigate any claim of violation. Upon completing such investigation, the department shall notify the employer of its findings. If the department concludes that a violation of sections 290.210 to 290.340 has occurred and a penalty may be due, the department shall notify the employer of such finding by providing a notice of penalty to the employer. Such penalty shall not be due until forty-five days after the date of the notice of the penalty.

3. The employer shall have the right to dispute such notice of penalty in writing to the department within forty-five days of the date of the notice. Upon receipt of this written notice of dispute, the department shall notify the employer of the right to resolve such dispute through arbitration. The state and the employer shall submit to an arbitration process to be established by the department by rule, and in conformance with the guidelines and rules of the American Arbitration Association or other arbitration process mutually agreed upon by the employer and the state. If at any time prior to the department pursuing an enforcement action to enforce the monetary penalty provisions of subsection 1 of this section against the employer, the employer pays the back wages as determined by either the department or the arbitrator, the department shall be precluded from initiating any enforcement action to impose the monetary penalty provisions of subsection 1 of this section.

4. If the employer fails to pay all wages due as determined by the arbitrator within forty-five days following the conclusion of the arbitration process, or if the employer fails to exercise the right to seek arbitration, the department may then pursue an enforcement action to enforce the monetary penalty provisions of subsection 1 of this section against the employer. If the court orders payment of the penalties as prescribed in subsection 1 of this section, the department shall be entitled to recover its actual cost of enforcement from such penalty amount.

5. Nothing in this section shall be interpreted as precluding an action for enforcement filed by an aggrieved employee as otherwise provided in law.

(L. 1957 p. 574 § 4, A.L. 1969 S.B. 142, A.L. 2007 S.B. 339)

Chapter 290

Wages, Hours and Dismissal Rights

Section 290.260

August 28, 2013

Determination of hourly rate for heavy and highway construction work, when made, where filed, objections, hearing, determination.

290.260. 1. The department, as it deems necessary, shall from time to time investigate and determine the prevailing hourly rate of wages for heavy and highway construction work in the localities. In doing so, the department shall accept and consider information regarding local wage rates that is submitted in either paper or electronic formats. A determination applicable to every locality to be contained in a general wage order shall be made annually on or before July first of each year for the Missouri state highways and transportation commission and shall remain in effect until superseded by a new general wage order. In determining prevailing rates, the department shall ascertain and consider the applicable wage rates established by collective bargaining agreements, if any, and the rates that are paid generally within the locality.

2. A certified copy of the determination so made shall be filed immediately with the secretary of state and with the department in Jefferson City. Copies shall be supplied by the department to all persons requesting them within ten days after the filing.

3. At any time within thirty days after the certified copies of the determinations have been filed with the secretary of state and the department, any person who is affected thereby may object in writing to the determination or the part thereof that he deems objectionable by filing a written notice with the department, stating the specific grounds of the objection.

4. Within thirty days of the receipt of the objection, the department shall set a date for a hearing on the objection. The date for the hearing shall be within sixty days of the receipt of the objection. Written notice of the time and place of the hearing shall be given to the objectors at least ten days prior to the date set for the hearing.

5. The department at its discretion may hear each written objection separately or consolidate for hearing any two or more written objections. At the hearing the department shall first introduce in evidence the investigation it instituted and the other facts which were considered at the time of the original determination which formed the basis for its determination. The department, or the objector, or any interested party, thereafter may introduce any evidence that is material to the issues.

6. Within twenty days of the conclusion of the hearing, the department must rule on the written objection and make the final determination that it believes the evidence warrants. Immediately, the department shall file a certified copy of its final determination with the secretary of state and with the department and shall serve a copy of the final determination on all parties to the proceedings by personal service or by registered mail.

7. This final decision of the department of the prevailing wages in the locality is subject to review in accordance with the provisions of chapter 536. Any person affected, whether or not the person participated in the proceedings resulting in the final determination, may have the decision of the department reviewed. The filing of the final determination with the secretary of state shall be considered a service of the final determination on persons not participating in the administrative proceedings resulting in the final determination.

8. At any time before trial any person affected by the final determination of the department may intervene in the proceedings to review under chapter 536 and be made a party to the proceedings.

9. All proceedings in any court affecting a determination of the department under the provisions of sections 290.210 to 290.340 shall have priority in hearing and determination over all other civil proceedings pending in the court, except election contests.

(L. 1957 p. 574 § 8, A.L. 1965 p. 95, A.L. 1969 S.B. 142, A.L. 2013 H.B. 34)

Chapter 290

Wages, Hours and Dismissal Rights

Section 290.262

August 28, 2013

Determination of hourly rate by location and occupation title, when made, where filed--objections, hearings--final determination--notice to department by public body, when.

290.262. 1. Except as otherwise provided in section 290.260, the department shall annually determine the prevailing hourly rate of wages in each locality for each separate occupational title. In doing so, the department shall accept and consider information regarding local wage rates that is submitted in either paper or electronic formats. A final determination applicable to every locality to be contained in an annual wage order shall be made annually on or before July first of each year and shall remain in effect until superseded by a new annual wage order or as otherwise provided in this section. The department shall, by March tenth of each year, make an initial determination for each occupational title within the locality.

2. The prevailing wage rate for an occupational title in a locality shall, with the exception of localities that are counties of the third and fourth classification and any county of the second classification with more than fifty-eight thousand but fewer than sixty-five thousand inhabitants, be the wage rate most commonly paid, as measured by the number of hours worked at each wage rate, for that occupational title within that locality. In determining such prevailing wage rates, the department shall ascertain and consider the applicable wage rates established by collective bargaining agreements, if any, when no wages were reported.

3. With respect only to localities that are counties of the third and fourth classification and any county of the second classification with more than fifty-eight thousand but fewer than sixty-five thousand inhabitants, the prevailing wage rate for an occupational title within such locality shall be determined in the following manner:

(1) The total number of hours worked that are not paid pursuant to a collective bargaining agreement for the time period in that occupational title in the locality and the total number of hours worked that are paid pursuant to a collective bargaining agreement for the time period in that occupational title in the locality shall be considered;

(2) If the total number of hours that are not paid pursuant to a collective bargaining agreement, in the aggregate, exceeds the total number of hours that are paid pursuant to such an agreement, in the aggregate, then the prevailing wage rate shall be the rate most commonly paid that is not paid pursuant to a collective bargaining agreement as measured by the number of hours worked at such rate for that occupational title within the locality;

(3) If the total number of hours that are paid pursuant to a collective bargaining agreement, in the aggregate, exceeds the total number of hours that are not paid pursuant to such an agreement, in the aggregate, then the prevailing wage rate shall be the rate most commonly paid that is paid pursuant to a collective bargaining agreement as measured by the number of hours worked at such rate for that occupational title within the locality;

(4) If no work within a particular occupational title has been performed in a locality at any wage rate, the prevailing wage rate for that occupational title in that locality shall be determined in the following manner:

(a) If wages were reported for an occupational title within a locality within the previous six annual wage order reporting periods and the prevailing wage rate was determined by a collective bargaining agreement by hours worked pursuant to such agreement in the most recent annual wage order reporting period where such wages were reported, then the wage rate paid pursuant to the current collective bargaining agreement shall be the prevailing rate for that occupational title within the locality;

(b) If wages were reported for an occupational title within a locality within the previous six annual wage order reporting periods and the prevailing wage rate was not determined by hours worked pursuant to a collective bargaining agreement in the most recent annual wage order reporting period where such wages were reported, then the wage rate paid in the most recent annual wage order reporting period when such wages were reported shall be the prevailing wage rate for that occupational title within the locality;

(c) If no wages were reported for an occupational title within a locality within the previous six annual wage order reporting periods, the department shall examine hours and wages reported in all adjacent Missouri counties during the same periods. The most recent reported wage rate in a given wage order period in the adjacent Missouri county with the most reported hours actually worked for that occupational title in the wage period during the previous six annual wage order reporting periods shall be used to determine the prevailing wage rate;

(d) If no wages were reported for an occupational title within any adjacent Missouri county within the previous six annual wage order reporting periods, then the rate paid pursuant to the current

collective bargaining agreement shall be the prevailing wage rate for that occupational title within the locality.

4. A certified copy of the initial determinations so made shall be filed immediately with the secretary of state and with the department in Jefferson City. Copies shall be supplied by the department to all persons requesting them within ten days after the filing.

5. At any time within thirty days after the certified copies of the determinations have been filed with the secretary of state and the department, any person who is affected thereby may object in writing to a determination or a part thereof that he deems objectionable by filing a written notice with the department, stating the specific grounds of the objection. If no objection is filed, the determination is final after thirty days.

6. After the receipt of the objection, the department shall set a date for a hearing on the objection. The date for the hearing shall be within sixty days of the receipt of the objection. Written notice of the time and place of the hearing shall be given to the objectors at least ten days prior to the date set for the hearing.

7. The department at its discretion may hear each written objection separately or consolidate for hearing any two or more written objections. At the hearing the department shall first introduce in evidence the investigation it instituted and the other facts which were considered at the time of the original determination which formed the basis for its determination. The department, or the objector, or any interested party, thereafter may introduce any evidence that is material to the issues.

8. Within twenty days of the conclusion of the hearing, the department shall rule on the written objection and make the final determination that it believes the evidence warrants. Immediately, the department shall file a certified copy of its final determination with the secretary of state and with the department and shall serve a copy of the final determination on all parties to the proceedings by personal service or by registered mail.

9. This final decision of the department of the prevailing wages in the locality for each occupational title is subject to review in accordance with the provisions of chapter 536. Any person affected, whether or not the person participated in the proceedings resulting in the final determination, may have the decision of the department reviewed. The filing of the final determination with the secretary of state shall be considered a service of the final determination on persons not participating in the administrative proceedings resulting in the final determination.

10. At any time before trial any person affected by the final determination of the department may intervene in the proceedings to review under chapter 536 and be made a party to the proceedings.

11. Any annual wage order made for a particular occupational title in a locality, that is based on the number of hours worked under a collective bargaining agreement, may be altered once each year, as provided in this subsection. The prevailing wage for each such occupational title may be adjusted on the anniversary date of any collective bargaining agreement which covers all persons in that particular occupational title in the locality in accordance with any annual incremental wage increases set in the collective bargaining agreement. If the prevailing wage for an occupational title is adjusted pursuant to this subsection, the employee's representative or employer in regard to such collective bargaining agreement shall notify the department of this adjustment, including the effective date of the adjustment. The adjusted prevailing wage shall be in effect until the next final annual wage order is issued pursuant to this section. The wage rates for any particular job,

contracted and commenced within sixty days of the contract date, which were set as a result of the annual or revised wage order, shall remain in effect for the duration of that particular job.

12. In addition to all other reporting requirements of sections 290.210 to 290.340, each public body which is awarding a contract for a public works project shall, prior to beginning of any work on such public works project, notify the department, on a form prescribed by the department, of the scope of the work to be done, the various types of craftsmen who will be needed on the project, and the date work will commence on the project.

(L. 1993 H.B. 638, A.L. 2013 H.B. 34)

Chapter 290

Wages, Hours and Dismissal Rights

Section 290.263

August 28, 2013

Hourly wage must equal or exceed federal minimum wage.

290.263. The hourly wages to be paid as prescribed in section 290.250 to workmen upon public works shall not be less than the minimum wage specified under Section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(L. 1969 S.B. 142)

Chapter 290

Wages, Hours and Dismissal Rights

Section 290.265

August 28, 2013

Wage rates posted, where.

290.265. A clearly legible statement of all prevailing hourly wage rates to be paid to all workmen employed in order to execute the contract and employed on the construction of the public works shall be kept posted in a prominent and easily accessible place at the site thereof by each contractor and subcontractor engaged in the public works projects under the provisions of this law and such notice shall remain posted during the full time that any such workman shall be employed on the public works.

(L. 1969 S.B. 142)

Chapter 290

Wages, Hours and Dismissal Rights

Section 290.270

August 28, 2013

Declaration as to prevailing wages final--maximum wages and hours not limited.

290.270. The finding of the department ascertaining and declaring the prevailing hourly rate of wages shall be final for the locality, unless reviewed under the provisions of sections 290.210 to 290.340. Nothing in sections 290.210 to 290.340, however, shall be construed to prohibit the payment to any workman employed on any public work of more than the prevailing rate of wages. Nothing in sections 290.210 to 290.340 shall be construed to limit the hours of work which may be performed by any workman in any particular period of time.

(L. 1957 p. 574 § 7, A.L. 1969 S.B. 142)

Chapter 290

Wages, Hours and Dismissal Rights

Section 290.280

August 28, 2013

Administration of oaths--subpoenas--enforcement of subpoenas.

290.280. The authorized representative of the department may administer oaths, take or cause to be taken the depositions of witnesses, and require by subpoena the attendance and testimony of witnesses and the production of all books, records, and other evidence relative to any matter under investigation or hearing. The subpoena shall be signed and issued by the department's authorized representative. In case of failure of any person to comply with any subpoena lawfully issued under this section, or on the refusal of any witness to produce evidence or to testify to any matter regarding which he may be lawfully interrogated, the authorized representative of the department may proceed to enforce obedience to the subpoenas in the manner provided by section 536.077 for administrative agencies. The authorized representative of the department shall have the power to certify to official acts.

(L. 1957 p. 574 § 9, A.L. 1961 p. 438)

Chapter 290

Wages, Hours and Dismissal Rights

Section 290.290

August 28, 2013

Contractor's payroll records, contents--affidavit of compliance required--signs on motor vehicles and equipment, requirements--temporary stationary sign, when--exception.

290.290. 1. The contractor and each subcontractor engaged in any construction of public works shall keep full and accurate records clearly indicating the names, occupations and crafts of every workman employed by them in connection with the public work together with an accurate record of the number of hours worked by each workman and the actual wages paid therefor. The payroll records required to be so kept shall be open to inspection by any authorized representative of the contracting public body or of the department at any reasonable time and as often as may be necessary and such records shall not be destroyed or removed from the state for the period of one year following the completion of the public work in connection with which the records are made.

2. Each contractor and subcontractor shall file with the contracting public body upon completion of the public work and prior to final payment therefor an affidavit stating that he had fully complied with the provisions and requirements of this chapter, and no public body shall be authorized to make final payment until such affidavit is filed therewith in proper form and order.

3. Each contractor and subcontractor engaged in any construction of public works shall have its name, acceptable abbreviation or recognizable logo and the name of the city and state of the mailing address of the principal office of the company, on each motor vehicle and motorized self-propelled piece of equipment which is used in connection with such public works project during the time the contractor or subcontractor is engaged on such project. The sign shall be legible from a distance of twenty feet but the size of the lettering need not be larger than two inches. In cases where equipment is leased or where affixing a legible sign to the equipment is impractical, the contractor may place a temporary stationary sign, with the information required pursuant to this subsection, at the main entrance of the construction project in place of affixing the required information on the equipment so long as such sign is not in violation of any state or federal statute, rule or regulation. Motor vehicles which are required to have similar information affixed thereto pursuant to requirements of a regulatory agency of the state or federal government are exempt from the provisions of this subsection.

4. The provisions of subsection 3 of this section shall not apply to construction of public works for which the contract awarded is in the amount of two hundred fifty thousand dollars or less.

(L. 1957 p. 574 § 5, A.L. 1969 S.B. 142, A.L. 1993 H.B. 416 & 417)

Chapter 290

Wages, Hours and Dismissal Rights

Section 290.300

August 28, 2013

Actions for prevailing wages by workman authorized.

290.300. Any workman employed by the contractor or by any subcontractor under the contractor who shall be paid for his services in a sum less than the stipulated rates for work done under the contract, shall have a right of action for double whatever difference there may be between the amount so paid and the rates provided by the contract together with a reasonable attorney's fee to be determined by the court, and an action brought to recover same shall be deemed to be a suit for wages, and any and all judgments entered therein shall have the same force and effect as other judgments for wages.

(L. 1957 p. 574 § 10, A.L. 1969 S.B. 142)

Chapter 290

Wages, Hours and Dismissal Rights

Section 290.305

August 28, 2013

Rebates by workmen prohibited, exception.

290.305. No person, firm or corporation shall violate the wage provisions of any contract contemplated in sections 290.210 to 290.340 or suffer or require any employee to work for less than the rate of wages so fixed, or violate any of the provisions contained in sections 290.210 to 290.340. Where workmen are employed and their rate of wages has been determined as provided in sections 290.210 to 290.340, no person, either for himself or any other person, shall request, demand or receive, either before or after such workman is engaged, that such workman pay back, return, donate, contribute, or give any part or all of said workman's wages, salary, or thing of value, to any person, upon the statement, representation, or understanding that failure to comply with such request or demand will prevent such workman from procuring or retaining employment, and no person shall, directly or indirectly, pay, request or authorize any other person to violate this section. This section does not apply to any agent or representative of a duly constituted labor organization acting in the collection of dues or assessments of such organization.

Chapter 290

Wages, Hours and Dismissal Rights

Section 290.315

August 28, 2013

Deductions from wages, agreement to be written, approval of public body required.

290.315. All contractors and subcontractors required in sections 290.210 to 290.340 to pay not less than the prevailing rate of wages shall make full payment of such wages in legal tender, without any deduction for food, sleeping accommodations, transportation, use of small tools, or any other thing of any kind or description. This section does not apply where the employer and employee enter into an agreement in writing at the beginning of said term of employment covering deductions for food, sleeping accommodations, or other similar items, provided such agreement is submitted by the employer to the public body awarding the contract and the same is approved by such public body as fair and reasonable.

(L. 1969 S.B. 142)

Chapter 290

Wages, Hours and Dismissal Rights

Section 290.320

August 28, 2013

Advertising for bids before prevailing wage is determined prohibited.

290.320. No public body, officer, official, member, agent or representative authorized to contract for public works shall fail, before advertising for bids or contracting for such construction, to have the department determine the prevailing rates of wages of workmen for each class of work called for by the public works in the locality where the work is to be performed as provided in sections 290.210 to 290.340.

(L. 1969 S.B. 142)

Chapter 290

Wages, Hours and Dismissal Rights

Section 290.325

August 28, 2013

Awarding contract or payment without prevailing wage determination prohibited.

290.325. No public body, officer, official, member, agent or representative thereof authorized to contract for public works shall award a contract for the construction of such improvement or disburse any funds on account of the construction of such public improvement, unless such public body has first had the department determine the prevailing rates of wages of workmen for the class of work called for by such public works in the locality where the work is to be performed and such determination has been made a part of the specifications and contract for such public works.

(L. 1969 S.B. 142)

Chapter 290

Wages, Hours and Dismissal Rights

Section 290.330

August 28, 2013

Convicted violators of sections 290.210 to 290.340 listed, effect of.

290.330. The department after investigation, upon complaint or upon its own initiative, shall file with the secretary of state a list of the contractors and subcontractors who it finds have been prosecuted and convicted for violations of sections 290.210 to 290.340 and such contractor or subcontractor, or simulations thereof, shall be prohibited from contracting directly or indirectly with any public body for the construction of any public works or from performing any work on the same as a contractor or subcontractor for a period of one year from the date of the first conviction for such violation and for a period of three years from the date of each subsequent violation and conviction thereof. No public body shall award a contract for a public works to any contractor or subcontractor, or simulation thereof, during the time that its name appears on said list. The filing of the notice of conviction with the secretary of state shall be notice to all public bodies and their officers, officials, members, agents and representatives.

(L. 1969 S.B. 142)

Chapter 290

Wages, Hours and Dismissal Rights

Section 290.335

August 28, 2013

Notice of violation, failure to comply, attorney general shall sue, injunctive relief authorized.

290.335. If it is found that a public body, contractor or subcontractor has not complied with any of the terms of sections 290.210 to 290.340, the department shall give notice of the precise violation in writing to such public body, contractor or subcontractor. Sufficient time may be allowed for compliance therewith as the department deems necessary. After the expiration of the time prescribed in said notice, the department may in writing inform the attorney general of the fact that such notice has been given and that the public body, contractor or subcontractor or the authorized representative or agent thereof to whom it was directed has not complied with such notice. Upon receipt thereof, the attorney general shall at the earliest possible time bring suit in the name of the state in the circuit court of the county in which such public body is located or where any such contractor or subcontractor is engaged in any public works to enjoin the award of such contract for a public works, or any further work or payments thereunder if the contract has been awarded, until the requirements of such notice are fully complied with. The court may issue a temporary restraining order with due notice to the defendant in such action. The plaintiff shall in any such injunctive action post an adequate bond to be set by the circuit judge. Upon final hearing thereof, if the court is satisfied that the requirements of the notice by the department to the defendant were not unreasonable or arbitrary, it shall issue an order enjoining the awarding of such contract for a public works, or any further work or payments thereunder if the contract has been awarded, until the notice is fully complied with. Such injunction shall continue operative until the court is satisfied that the requirements of such notice have been complied with and the court shall have and exercise with respect to the enforcement of such injunctions all the power in it in other similar cases. Both the plaintiff and defendant in such action have the same rights of appeal as are provided by law in other injunction proceedings.

(L. 1969 S.B. 142)

Chapter 290

Wages, Hours and Dismissal Rights

Section 290.340

August 28, 2013

Penalty for violation.

290.340. Any officer, official, member, agent or representative of any public body, contractor or subcontractor who willfully violates and omits to comply with any of the provisions and requirements of sections 290.210 to 290.340 shall be punished for each violation thereof by a fine not exceeding five hundred dollars, or by imprisonment not exceeding six months, or by both such

fine and imprisonment. Each day such violation or omission continues shall constitute a separate offense as contemplated by this section.

(L. 1969 S.B. 142)

Chapter 292

Health and Safety of Employees

Section 292.675

August 28, 2013

Definitions--on-site training required--workers to maintain documentation of completion of training--resolution or ordinance required--violations, penalty--rulemaking authority.

292.675. 1. As used in this section, the following terms shall mean:

(1) "Construction", construction, reconstruction, demolition, painting and decorating, or major repair;

(2) "Contractor", any person entering into a contract with a public body for construction of public works which employs on-site employees for purposes of completion of the contract;

(3) "Department", the department of labor and industrial relations;

(4) "On-site employee", laborers, workmen, drivers, equipment operators, and craftsmen employed by contractors and subcontractors to be directly engaged in construction at the site of the public works. "Directly engaged in construction" shall mean work performed in the actual erection of the structure or completion of the improvement constituting the public works. In addition, employees working at a nearby or adjacent facility used by the contractor or subcontractor for construction of the public works shall be deemed on-site employees. Persons engaged solely in the transportation of materials, fuel, or equipment to the site of the public works shall not be deemed to be directly engaged in construction;

(5) "Person", any natural person, joint venture, partnership, corporation, or other business or legal entity;

(6) "Public body", the state of Missouri or any officer, official, authority, board or commission of the state, or other political subdivision thereof, or any institution supported in whole or in part by public funds;

(7) "Public works", all fixed works constructed for public use or benefit or paid for wholly or in part out of public funds. "Public works" includes any work done directly by any public utility company when performed by it pursuant to the order of the public service commission or other public authority whether or not it be done under public supervision or direction or paid for wholly or in part out of public funds when let to contract by said utility;

(8) "Subcontractor", any person entering into a subcontract with a contractor for construction of public works which employs on-site employees for purposes of completion of the contract.

2. Any contractor for any public body for purposes of construction of public works and any subcontractor to such contractor shall provide a ten-hour Occupational Safety and Health Administration (OSHA) construction safety program for their on-site employees which includes a course in construction safety and health approved by OSHA or a similar program approved by the department which is at least as stringent as an approved OSHA program, unless such employees have previously completed the required program. All employees who have not previously completed the program are required to complete the program within sixty days of beginning work on such construction project.

3. Any employee found on a work site subject to this section without documentation of the successful completion of the course required under subsection 2 of this section shall be afforded twenty days to produce such documentation before being subject to removal from the project.

4. The public body shall specify the requirements of this section in the resolution or ordinance and in the call for bids for the contract. The contractor to whom the contract is awarded and any subcontractor under such contractor shall require all on-site employees to complete the ten-hour training program required under subsection 2 of this section or such employees must hold documentation of prior completion of the program. The public body awarding the contract shall include this requirement in the contract. The contractor shall forfeit as a penalty to the public body on whose behalf the contract is made or awarded, two thousand five hundred dollars plus one hundred dollars for each employee employed by the contractor or subcontractor, for each calendar day, or portion thereof, such employee is employed without the required training. The penalty shall not begin to accrue until the time period in subsections 2 and 3 of this section have elapsed. The public body awarding the contract shall include notice of these penalties in the contract. The public body awarding the contract shall withhold and retain therefrom all sums and amounts due and owing as a result of any violation of this section when making payments to the contractor under the contract. The contractor may withhold from any subcontractor sufficient sums to cover any penalties the public body has withheld from the contractor resulting from the subcontractor's failure to comply with the terms of this section. If the payment has been made to the subcontractor without withholding, the contractor may recover the amount of the penalty resulting from the fault of the subcontractor in an action maintained in the circuit court in the county in which the public works project is located from the subcontractor.

5. In determining whether a violation of this section has occurred, and whether the penalty under subsection 4 of this section shall be imposed, the department shall investigate any claim of violation. Upon completing such investigation, the department shall notify the public body and any party found to be in violation of this section of its findings and whether a penalty shall be assessed. Determinations under this section may be appealed in the circuit court in the county in which the public works project is located.

6. If the contractor or subcontractor fails to pay the penalty within forty-five days following notification by the department, the department shall pursue an enforcement action to enforce the monetary penalty provisions of subsection 4 of this section against the contractor or subcontractor found to be in violation of this section. If the court orders payment of the penalties as prescribed under subsection 4 of this section, the department shall be entitled to recover its actual cost of enforcement in addition to such penalty amount.

7. The department may establish rules and regulations for the purpose of implementing the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

8. This section shall not apply to work performed by public utilities which are under the jurisdiction of the public service commission, or their contractors, or work performed at or on facilities owned or operated by said public utilities.

9. The provisions of this section shall not apply to rail grade crossing improvement projects where there exists a signed agreement between the railroad and the Missouri department of transportation or an order issued by the department of transportation ordering such construction.

10. This section shall take effect on August 28, 2009.

(L. 2008 H.B. 1549, et al., A.L. 2009 H.B. 390)

Effective 7-07-09

*This section contained an emergency clause, which makes the amendments effective upon the governor's signature on 7-07-09; however, subsection 10 mandates an effective date of 8-28-09.